

REMARKS

Claims 1, 5-6, 8, 10, 12-15 are pending in the application; claim 2, 3, 4, 7, 9, 11 are canceled.

Drawings

The drawings are objected to under 37 CFR 1.83(a) for not showing the features of claims 8 (“drive”) and 11. Claim 8 has been amended so as to delete “drive”, and claim 11 has been canceled.

Claims Objection

Claim 10 is of improper dependent form as it depends on itself: claim 10 has been corrected in that it now depends from claim 1.

Claim Rejections - 35 U.S.C. 112

Claims 8 and 11 stand rejected under 35 U.S.C. 112, 1st paragraph, as failing to comply with the enablement requirement. Claim 8 also stands rejected under 35 USC 112, 2nd paragraph because of alternative language.

Claim 8 has been amended so as to delete “drive”, and claim 11 has been canceled.

Claim 3 stands rejected under 35 USC 112, 2nd paragraph, because of the phrase “a size providing a pinching protection or a finger protection” since this concerns an infinitely variable size and since the metes and bounds of the claim are unclear.

It is respectfully submitted that human fingers do not have an “infinitely variable” size. Any person skilled in the art will be able determine a spacer gap that prevents that fingers can be pinched when the frame and the shelf members are rotated, i.e., there must be sufficient space to prevent fingers holding onto the drawers or frame for rotation from being caught between the edge of the sidewalls of the cabinet and the drawer/frame. After all, there are standardized sizes in the jewelry business for rings, in the accessories business for gloves etc. One can simply insert one’s hand into a gap to determine the risk of getting pinched.

Reconsideration and withdrawal of the rejection of the claims under 35 USC 112, 2nd paragraph, are therefore respectfully requested.

Rejection under 35 U.S.C. 102

Claims 1, 3, 9, 15 stand rejected under 35 U.S.C. 102(b) as being anticipated by *Fulterer (US 6,199,966)*.

Claim 1 has been amended to include the feature of claims 2, 3, 4, and 9 so that the above rejection no longer applies.

Claims 1-7 and 15 stand rejected under 35 U.S.C. 102(b) as being anticipated by *EP 0 082 219*.

Claim 1 has been amended to include the feature of claims 2, 3, 4, and 9 so that the above rejection no longer applies.

Rejection under 35 U.S.C. 103

Claims 2, 4-8, 10-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Fulterer* and *US 3,146,048*.

Claim 1 has been amended to include the features of claims 2, 3, 4, 9. This combination of features has not been claimed before and the patentability of claim 1 will therefore be discussed in view of all references cited by the examiner.

Claim 1 defines a pullout device for cabinet drawers that comprises:

- a) guide parts in the form of an upper and a lower pullout rails;
- b) a frame movable arranged in an interior of a cabinet body so as to move on the guide parts;
- c) shelf members connected to the frame;
- d) the frame having a vertical longitudinal front support supporting a cabinet door and a vertical longitudinal rear support;
- e) wherein the frame is configured to be pulled out forwardly relative to the cabinet body in a direction of a central longitudinal plane that extends perpendicular to a front opening plane of the cabinet body from a storage position inside the cabinet body into an extended pullout position in front of the cabinet body, wherein the frame, when in the extended pullout position, is pivotable;
- f) a support defining the extended pullout position such that the vertical longitudinal rear support of the frame is positioned at a spacing defining a spacer gap in front of the opening plane of the cabinet body, wherein the spacer gap has a size providing a finger protection preventing fingers from being pinched;
- g) bearings connecting the frame to the guide parts, wherein the bearings define a vertical axis coinciding with a central axis of the cabinet drawer, wherein the frame is freely

rotatable in a clockwise direction or a counterclockwise direction;

h) a first locking device for blocking at least a return movement of the frame after reaching the extended pullout position.

Examiner cites **Fulterer** because a tall cabinet is disclosed with pull-out device comprising upper and lower rails and a frame moving on the rails. The frame has a vertical longitudinal support for a cabinet door and a vertical rear support; shelf members are connected to the rails. Examiner argues that a gap is formed when the pullout device is in the extended position as shown in Fig. 26. The examiner states that hooks and openings are disclosed as blocking return movement.

Fulterer does not show an extended pullout position defined by being spaced by a spacer gap from the front opening plane of the cabinet body, wherein the spacer gap has a size providing a finger protection preventing fingers from being pinched (feature f).

Fulterer also does not show that the frame is pivotable once pulled out (feature e); the telescoping slide attachment of the frame shown at the bottom of Fig. 26 does not allow for rotation of the frame and does not provide a suggestion that the frame could be rotated.

Fulterer also does not show bearings that connect the frame to the top and bottom rails and that define a vertical axis coinciding with a central axis of the cabinet drawer (feature g). The frame of *Fulterer* is not pivotable in a clockwise direction or a counterclockwise direction as the frame is only attached to a telescoping slide without any provisions for rotation.

EP 0082219 is cited by the examiner as showing a tall cabinet with a pullout and upper and lower rails as guide parts. The pullout device has a frame and a “door” and the rear has bearings. Shelf members are provided (partitions). The rear of the pullout device extends beyond the opening of the cabinet (Fig. 3).

This reference does not show an extended pullout position that is defined by being spaced by a spacer gap from the front opening plane of the cabinet body, wherein the spacer gap has a size providing a finger protection preventing fingers from being pinched (feature f). No mention is made of a gap sized to prevent fingers from being pinched.

Also, this reference does not show that the frame is freely rotatable once pulled out

(feature g): the frame can only be pivoted into the position shown in Fig. 1 and back; free rotation in both directions is not possible as the body of the “cabinet” is in the way because of the pivot location 7, 8. The reference also does not show bearings that connect the frame to the top and bottom rails and that define a vertical axis coinciding with a central axis of the cabinet drawer (feature g). The frame 13, 14 is pivotably at one corner and not about a vertical axis coinciding with the central axis of the drawer (13, 14, 15, 16).

Graham teaches a cabinet with frame and door supported by rails. Bearings are connected to the frame. A second locking device is provided that locks the rotation of the frame by using notches but allows stepped pivot positions (up or down). A first locking mechanism is provided that comprises a spring and forcing pins to lock the guide parts in the extended position or a storage position.

Graham does not show an extended pullout position that is defined by being spaced by a spacer gap from the front of the opening plane of the cabinet body, wherein the spacer gap has a size providing a finger protection preventing fingers from being pinched (feature f). No mention is made of a gap sized to prevent fingers from being pinched. Also, this reference does not show that the frame is freely rotatable once pulled out (feature g): the frame can only be pivoted into the positions defined by the detent block 80 (Figs. 10-12) that secure the electronic equipment in a selected position. The reference also does not show bearings that connect the frame to the top and bottom rails and that define a vertical axis coinciding with a central axis of the cabinet drawer (feature g). The axis of rotation is horizontal; there are no top and bottom rails to which a frame is connected so as to rotate freely about a vertical axis that coincides with the central axis of the drawer.

The references alone or in combination cannot anticipate or make obvious the invention as claimed in amended claim 1.

Information Disclosure Statement

In the counterpart German patent application of the instant application, three references listed on the attached Information Disclosure Statement have been cited in opposition proceedings.

U.S. 6,511,140 B2 is submitted as the English language counterpart of EP 1161899 that has been actually cited in the German proceedings. This reference discloses in col. 1, lines 42-50, and col. 4, lines 43-53, that tall cupboards are known where after a pullout device has been pulled out, the drawer 20 mounted on the pullout device can be rotated. In the pulled-out position, the rearward end of the drawer is in front of the furniture body 1 so that the drawer can be pivoted.

This pulled-out position in accordance with U.S. 6,511,140 however only means that the drawer has been pulled into position such that the rearward end is in front of the front end of the carcass rail 2 and in front of the furniture body 1. This means that the drawer has been pulled out just that far that a rotation relative to the furniture body is possible. However, this pulled-out position requires only that the rearward end is in front of the carcass rail and in front of the furniture body as explained in col. 4, lines 49-53. Nothing is said in regard to the spacing between the front end of the furniture body and the rearward end of the drawer. Moreover, in col. 4, lines 35 to 43, it is set forth that the length of the drawer corresponds essentially to the length of the pull-out device and thus corresponds to the depth of the tall cupboard itself. Thus, there is no extra space available between the front end of the furniture body and the rearward end of the drawer. An almost flush arrangement is provided that just enables that the parts can move past one another in the pulled-out position.

Instant claim 1 differs from this pullout position in that an extended pullout position is required. The frame and the shelves attached thereto are to be positioned in an extended pullout position which is defined in accordance with claim 1 (feature f) in such a way that the completely pulled-out frame has at its rearward end relative to the front opening plane of the cabinet a spacer gap that has a size defining a finger/pinching protection. According to the present invention, the frame and shelf arrangement is to be pulled out of the cabinet past the front opening plane so that subsequently free rotation of the frame is possible: the rearward end of the frame is positioned at such a spacing to the edges of the cabinet body that fingers holding onto the frame/shelf arrangement for rotating it cannot be pinched at the edges of the sidewalls of the cabinet.

Moreover, claim 1 defines that the frame is connected by bearings to top and bottom rails and that the bearings define a vertical axis coinciding with the central axis of the

pullout device (feature g). It is important in this connection that the pull-out device can be freely rotated clockwise and counterclockwise about this vertical axis into a removal position once it has been moved into the extended pull-out position. In pullout positions as disclosed in the prior art where the pullout device is located essentially in the opening plane, fingers can be pinched easily, in particular, because the frame has not yet been locked. Only in the extended pullout position as claimed in claim 1 the first locking device for locking at least a return movement of the frame after reaching the extended pullout position becomes effective. Thus, the combination of the spacer gap as defined and the first locking device active in the extended pullout position provides an excellent safety feature.

Moreover, the U.S. 6,511,140 does not disclose bearings connected to top and bottom rails so that a vertical axis is defined that coincides with the central axis of the cabinet drawer (feature g).

Claim 1 as amended is therefore not anticipated or obvious in view of U.S. 6,511,140.

DE 43 08 195 discloses a guide rail system for removable cabinets (see Figs. 1 and 2). Frame 12, 13, 14, 15 is connected to and movable along rails 18, 19 mounted in the cabinet. As is shown in the illustration of Fig. 2 but also in the illustration according to Fig. 8 in connection with Fig. 4, this pullout device in the completely pulled out position is arranged such that the rearward end is still positioned within the cabinet body. The frame therefore cannot be pulled out to such an extent that its rearward end is at a spacing from the front opening plane of the furniture body (feature f).

The manner in which the pullout frame is to be operated and pivoted into its end position is disclosed in more detail in col. 4, lines 19ff, of this reference in connection with Fig. 4. A torsion spring 46 is disclosed that is wound about pin 48. One end of this spring acts on a recess 42 on a longitudinal arm 30 of a carriage 28 supporting rotatably on its horizontal wall 43 a locking lever 44 with square cross-section. One end of the locking lever 44 is connected by a pivot pin 45 to longitudinal arm 30 and the other end of the locking lever 44 can be rotated by the aforementioned torsion spring counterclockwise, viewed from the front of the cabinet. The rotational movement of the locking lever 44 is delimited

in the direction toward the recess by the vertical wall 47 of recess 42 (Fig. 4).

When the frame is pulled out into the position shown in Fig. 8, the rear wheels 55, 56 are disengaged so that the spring force of the torsion spring 46 can act freely. The torsion spring 46 acts on the vertical pin 48 on the lever 44 so that the locking lever 44 will automatically rotate, viewed from the front side of the cabinet counterclockwise. When the free end of the lever 44 engages a slanted surface 26 of stop 24, a further movement of the frame is prevented. This is illustrated in Fig. 8. The slanted surface 26 blocks together with the lever 44 in the position illustrated in Fig. 8 the frame from being pushed back into the cabinet. It is necessary to push the frame manually against the force of the torsion spring 46 in the clockwise direction to release it from the locked position.

It is important to note that after reaching the pivot position shown in Fig. 8, the user can rotate the frame as indicated in Fig. 2 by the solid arrow. This pivot movement however is possible only counterclockwise. It is not possible for the user to rotate the drawer clockwise or counterclockwise as desired. This prevents, for example, that a shelf can be filled from both sides and the user can access as needed one or the other side of the shelf. The pivot axis of the frame is at 49 (Fig. 8), i.e., the axis is not centrally arranged and is not symmetrical relative to a base surface of the frame. The bearings do not define a vertical axis that coincides with the central axis of the drawer (feature g).

Claim 1 of the instant application is therefore neither anticipated nor obvious in view of *DE 43 08 195*. The frame of the prior art does not have an extended pullout position where a spacer gap as defined in claim 1 is provided. It is also not disclosed that the upper and lower guide rails are connected to bearings that define a vertical axis coinciding with the central axis of the drawer about which vertical axis the frame/drawer can be pivoted freely clockwise and counterclockwise once the extended pullout position has been reached that is secured by the first locking device. This reference also does not show a locking device that prevents return of the frame when the pullout device has reached the extended pullout position because the frame/drawer never assumes an extended pullout position. Accordingly, the drawer according to claim 1 is not obvious in view of the cited German reference.

EP 0 922 417 discloses a telescoping slide 2 for cabinets that has a device in the

form of a pivot lever 4 for locking the telescoping slide and the drawer in the pulled-out position by engaging an abutment 5. By pivoting (at 10) the lever 4 out of engagement, the telescoping slide 2 can be pushed in (Fig. 1).

It is not disclosed in this reference that only upon reaching the extended pullout position free rotation of the drawer is made possible as the frame is then locked against returning.

Also, this reference does not disclosed that upper and lower guide rails with bearings connected thereto define of vertical axis that coincides with the vertical center axis of the pullout device about which the pullout device (frame/shelves) rotate freely clockwise and counterclockwise.

Moreover, this document also does not show that the extended pullout position provides a finger pinching protection.

CONCLUSION

In view of the foregoing, it is submitted that this application is now in condition for allowance and such allowance is respectfully solicited.

Should the Examiner have any further objections or suggestions, the undersigned would appreciate a phone call or **e-mail** from the examiner to discuss appropriate amendments to place the application into condition for allowance.

Authorization is herewith given to charge any fees or any shortages in any fees required during prosecution of this application and not paid by other means to Patent and Trademark Office deposit account 50-1199.

Respectfully submitted on December 20, 2007,

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